

IN THE HIGH COURT OF KARNATAKA : AT BANGALORE

DATED : 28th day of May 1998

BEFORE

THE HON'BLE MR. JUSTICE K.H.N. KURANGA

C. R. P. NO. 1332 of 1998

Between:

Sri B.S. Lakshman Rao,
S/o late B.K. Subba Rao,
aged about 58 years,
residing at No. 656,
Bazaar Street,
Yelahanka,
Bangalore North - 64. Petitioner

(By Smt. S.K. Nagarathna,
Advocate for petitioner)

And:

Smt. Lakshmiddevamma
D/o Narayanappa,
aged about 52 years,
residing at Magadi Road,
near Rudreshwar Theatre,
Kamakshipalya,
Bangalore-79. Respondent.

This petition is filed under Section 115 of the Code of Civil Procedure against the order dated 19-1-1998 passed in O.S. No. 603/96 on the file of the Principal Civil Judge (Junior Division), Bangalore Rural District, Bangalore allowing the prayer.

This petition is coming on for admission, this day, the court made the following:-

O R D E R

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O R D E R

The petitioner is the defendant in O.S. No.603 of 1996 on the file of the Principal Civil Judge (Junior Division), Bangalore Rural District, Bangalore.

2. He has, in this petition, challenged the order dated 19-1-1998 passed by the Court below in the said suit rejecting the application filed by the petitioner-defendant under Section 151 C.P.C. challenging the jurisdiction of the court.

3. During the pendency of the suit, the present petitioner-defendant filed the application I.A.II contending that the Court has no territorial jurisdiction. The said application was posted for hearing on 19-1-1998. The Court below has passed an order on that date as follows:-

"Case called. Counsel for plaintiff present. Counsel for defendant absent. Defendant is absent. Plaintiff is present. Perused endorsement of City Civil Court dated 7-9-97 and on verification by my office, perused village map coming on record. It comes under jurisdiction of this Court.

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Hence this court has got jurisdiction to try the suit. Lateron the counsel for defendant present prays for time. For time: prayer is allowed.

To hear on I.As. call on 20-1-98."

4. The grievance of the petitioner, in this petition, is that the Court has dismissed the application I.A.II filed by the petitioner. It is seen from the order dated 19-1-1998 that the application I.A.II was called in the Court, the petitioner-defendant and his counsel were absent. Lateron the court held that it has got jurisdiction to try the suit. Lateron, the counsel for the petitioner-defendant appeared in the Court and sought for time. The Court granted time and passed an order as follows:-

"To hearon I.As. Call on 20-1-98."

It shows that though the court held earlier that it has got jurisdiction to try the suit, after the counsel for the petitioner appeared and sought for time, the Court granted time and adjourned the case for hearing on the applications, i.e., I.A.I filed by the plaintiff and I.A.II filed by the defendant. Therefore,

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it is difficult to accept the contention of the petitioner that the court has dismissed the application I.A.II filed by the petitioner-defendant. It is clear from the order sheet dated 19-1-1998 maintained by the court below that the application I.A.II filed by the petitioner-defendant is still pending. Hence, the petition filed by the petitioner is liable to be dismissed and accordingly, it is dismissed.

Sd/-
JUDGE

KBN/-